

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from Order No.646 of 2007.**

Smt.Shardaben Hiralal Jaiswal ..Appellant

versus

Rohit Hiralal Jaiswal
& Others ..Respondents

Mr.V.B.Tiwari i/b. M/s. K.P.Tiwari & Co. for the
Appellant

Mr.Snehal K. Shah with Ramchandra N. i/b. Narayan
& Narayan for the Respondent Nos.6 to 9.

**Coram : S.R.Sathe, J.
Dated : 27th Sept., 2007**

P.C.

1. Heard both the learned Advocates at length.
2. Appellant-Original Plaintiff had filed suit for permanent injunction against defendants 1 to 4 restraining them from transferring or creating third party interest in respect of the suit property. The said suit was disposed of as withdrawn on 17.7.2006. It was at the instance of the C.A. of the plaintiff. However, plaintiff thereafter filed Notice of Motion No.3847 of 2006 and prayed that the withdrawal of the suit is sought on forged power of attorney and as such prayed for restoration of the suit. She also prayed for other reliefs, including

the appointment of Receiver.

3. The learned trial Judge passed an interim order restraining the defendant Nos.2 to 4 from creating third party interest. The other reliefs claimed were not granted. Hence, the original plaintiff filed the present appeal.

4. Admittedly, the Notice of Motion is now fixed for hearing in the City Civil Court on 28.9.2007. When such is the position, there is no propriety in hearing this matter on merits at this stage and interfere with the order passed by the learned trial Judge on 11.10.2006. Hence, appeal is disposed of accordingly.

5. The trial Court is directed to dispose of the Notice of Motion on merits according to law as expeditiously as possible and in any event on or before 15.10.2007.

(S.R.Sathe, J.)

